

EXECUTION COPY

ASSET PURCHASE AGREEMENT

BY

AND

BETWEEN

HEALTH MIDWEST

AND

HM ACQUISITION, LLC

Dated as of November 22, 2002

EXECUTION COPY

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of November 22, 2002 by and between **HEALTH MIDWEST**, a Missouri nonprofit public benefit corporation ("Seller"), and **HM ACQUISITION, LLC**, a Missouri limited liability company ("Buyer"). **HCA INC.**, a Delaware corporation ("Guarantor"), joins in this Agreement solely for the purposes set forth in **Section 14.18**.

WITNESSETH:

WHEREAS, Seller owns or controls, directly or indirectly, the organizations identified as System Entities on **Schedule One** attached hereto (each referred to herein individually as a "System Entity" and Seller and the System Entities are sometimes collectively referred to herein as the "System"); and

WHEREAS, System Entities directly or indirectly own and operate or lease and operate each of the hospitals and/or other health care facilities set forth on **Schedule Two** attached hereto (collectively, the "Facilities"); and

WHEREAS, to the extent the Closing (as defined herein) occurs, Seller desires to treat some portion of the transactions contemplated hereby and one or more other transactions as transactions qualifying as an exchange of "like kind" property pursuant to Section 1031 of the Code (as defined herein); and

WHEREAS, in reliance upon the representations, warranties and covenants of Seller set forth herein, Buyer desires to acquire from Seller substantially all of the System's operating assets, including, without limitation, the Facilities, and assume certain liabilities, all as more fully set forth herein; and

WHEREAS, in reliance upon the representations, warranties and covenants of Buyer set forth herein, including the assumption by Buyer of certain liabilities as more fully set forth herein, Seller is willing to sell to Buyer substantially all of the System's operating assets, including, without limitation, the Facilities;

NOW, THEREFORE, for and in consideration of the premises, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy all of which are forever acknowledged and confessed, the parties hereto agree as follows:

1. DEFINITIONS

1.1 Definitions. As used herein the terms below shall have the following meanings:

"AAA" has the meaning given that term by **Section 14.2**.

"Accrued PTO" has the meaning given that term by **Section 2.3**.

"Acquired Entities" means the following direct or indirect wholly-owned subsidiaries of Health Midwest: LSII; MCII; HMVG; VNA Plus, Inc.; Clinishare, Inc.; Nuclear Diagnosis, Inc.; Employer Health Services, Inc.; Kansas City Perfusion Services, Inc.; Mid-States Financial Services, Inc.; Health Midwest Office Facilities Corporation; Health Midwest Insurance Company, Ltd.; EyeCare Surgicare of Independence, L.L.C.; Johnson County Surgicenter, L.L.C.; Health Midwest Medical Group, Inc.; and Wetzel Clinic, Inc.; provided that any of the foregoing that is a Retained Facility and Operation (i.e., it is not transferred at Closing) shall not be treated as an Acquired Entity for purposes of the representations and warranties under **Article 6** made at Closing.

"Affected Facilities" has the meaning given that term by **Section 4.4**.

"Affiliate" means, as to the Person in question, any Person that directly or indirectly controls, is controlled by, or is under common control with, the Person in question and any successors or assigns of such Persons; and the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through ownership of voting securities, appointment of a majority of the governing board, by contract or otherwise.

"Agency Receivables" has the meaning given that term by **Section 2.1**.

"Agreement" means this Agreement together with all Exhibits, Schedules, and Supplements attached or delivered with respect hereto or expressly incorporated herein by reference.

"Agreement to Lease (Hospitals)" means the Agreement to Lease, dated December 23, 1998, originally by and among the parties shown on **Schedule Three** relating principally to Overland Park Regional Medical Center and Independence Regional Health Center and certain assets related to each such hospital (herein called "Leased Triad Hospitals"). The Triad Entities shown on **Schedule Three** subsequently received assignment of the rights and responsibilities of the applicable landlords under the Agreement to Lease (Hospitals).

"Agreement to Lease (Surgicenters)" means the Agreement to Lease Surgicenter Facilities, dated December 23, 1998, originally by and among the parties shown on **Schedule Three** relating to Surgicenter of Kansas City, Eye Care Surgery Center, and Surgicenter of Johnson County (herein called "Leased Triad Surgicenters"). The Triad Entities shown on **Schedule Three** subsequently received assignment of the rights and responsibilities of the applicable landlords under the Agreement to Lease (Surgicenters).

"AHLA" has the meaning given that term by **Section 14.2**.

"Ancillary Facilities and Operations" means the assets and liabilities of (1) Health Midwest Medical Group, Inc., (2) Wetzel Clinic, Inc. and (3) Metropolitan Multispecialty Physicians Group, Inc.

"Applicable Rate" means the applicable federal rate published by the Internal Revenue Service with respect to any month.

"Approval" means any approval, authorization, consent, qualification or registration, or any extension, modification, amendment or waiver of any of the foregoing, of or from, or any notice, statement, filing or other communication to be filed with or delivered to, any Governmental Entity or any other Person.

"Assets Whose Use Is Limited" has the meaning given that term by Section 2.2.

"Assumed Contracts" means all commitments, contracts, leases and agreements in respect of the Facilities or Purchased Assets to which Seller or any System Entity is a party or by which Seller or any System Entity, the Facilities, the Purchased Assets or any portion thereof are bound, including, without limitation: (a) the Triad Agreements, (b) physician agreements, (c) agreements with health maintenance organizations, preferred provider organizations or other third party payor organizations, (d) joint venture or partnership agreements, (e) employment contracts or any other contracts, agreements or commitments to or with individual employees or agents, (f) contracts or commitments materially affecting ownership of, title to, use of or any interest in real estate, including any tenant leases, (g) equipment leases, (h) equipment maintenance agreements, (i) agreements with municipalities, (j) collective bargaining agreements or other contracts, commitments, obligations or duties to or with any labor unions, labor organizations or other employee representatives or groups of employees, (k) except to the extent associated with Excluded Liabilities, loan agreements, bonds, mortgages, liens or other security agreements, (l) patent licensing agreements or any other agreements, licenses or commitments with respect to patents, patent applications, trademarks, trade names, service marks, technical assistance, copyrights or other like terms affecting the Facilities or the Purchased Assets, (m) agreements, licenses or commitments relating to data processing programs, software or source codes, (n) policies of general liability insurance, malpractice liability insurance, property and casualty insurance and other contracts or policies of insurance for risks of System operations, and (o) any other contracts or commitments, whether in the ordinary course of business or not, which involve future payments, performance of services or delivery of goods or materials, to or by Seller or any System Entity; provided that Assumed Contracts will not include any Excluded Contracts. To the extent that any commitment, contract, lease or agreement relates both to Purchased Assets and Excluded Assets or Excluded Liabilities, the parties will use their commercially reasonable efforts to equitably allocate the rights and obligations under such commitments, contracts, leases or agreements between themselves, both before and after the Closing. Notwithstanding the foregoing, Buyer shall have no obligations or liabilities for the matters described in Section 2.4(l).

"Assumed Liabilities" has the meaning given that term by Section 2.3.

"Assumed Physician Receivables" means all accounts and notes receivable from physicians and other potential sources of referrals (or Persons owned or controlled, in whole or in part, by physicians or potential sources of referrals, including those in a position to influence referrals) to Seller or any System Entity other than Excluded Physician Receivables.

"Balance Sheet" has the meaning given that term by Section 6.5.

"Balance Sheet Date" has the meaning given that term by Section 6.5.

"Buyer Indemnified Parties" has the meaning given that term by Section 13.1.

"Buyer's Affiliated Group" has the meaning given that term by Section 12.5(d)(i).

"Buyer's Disclosure Schedule" has the meaning given that term by Section 7.

"Cerner Deferral" has the meaning given that term by Section 2.4(p).

"COBRA" has the meaning given that term by the Employee Benefit Plans Supplement attached hereto.

"Closing" has the meaning given that term by Sections 4.1 and 4.4.

"Closing Balance Sheet" has the meaning given that term by Section 2.9.

"Closing Date" has the meaning given that term by Sections 4.1 and 4.4.

"Code" means the Internal Revenue Code of 1986, Title 26 of the United States Code, as amended from time to time, and the related regulations and published guidance upon which general taxpayers are permitted to rely.

"Competing Business" has the meaning given that term by Section 12.6.

"Confidential Information" means all information of any kind concerning the System, obtained directly or indirectly from Seller, in connection with the transactions contemplated by this Agreement except information (i) ascertainable or obtained from public or published information, (ii) received from a third party not under an obligation to Seller or any System Entity to keep such information confidential, (iii) which is or becomes known to the public (other than through a breach of this Agreement), or (iv) which was in Buyer's possession prior to disclosure thereof to Buyer in connection herewith.

"Core Facilities and Operations" means those Facilities and operations listed on Schedule 9.8 to this Agreement.

"Damage Adjustment Amount" has the meaning given that term by Section 2.8.

"Damages" has the meaning given that term by Section 13.1.

"De Minimis Contract" means a commitment, contract, lease or agreement that (a) involves the payment or receipt of \$100,000 or less per year and (b) is cancelable by Seller without penalty or cost upon not more than 180 days prior notice; provided that no commitments, contracts, leases or agreements that (x) involve direct or indirect payments to or from physicians or other potential sources of referrals (or Persons owned or controlled, in whole or in part, by physicians or potential sources of referrals, including those in a position to influence referrals) or

(y) would, if assumed by Buyer, restrict the ability of Buyer to compete in any manner in any geographic area, are De Minimis Contracts.

“**EMTALA**” has the meaning given that term by **Section 6.7**.

“**ERISA**” has the meaning given that term by the Employee Benefit Plans Supplement attached hereto.

“**Employee**” has the meaning given that term by **Section 11.3**.

“**Employee Benefit Plans**” means those plans (including individual agreements) listed as such in **Schedule Four**, which include all employee benefit plans within the meaning of Section 3(3) of ERISA maintained or contributed to by Seller or any entity treated as a single employer with Seller under ERISA or the Code.

“**Employee Benefit Plans Supplement**” means the supplement with that title appended to this Agreement. The Employee Benefit Plans Supplement is, and shall be construed as being, an integral part of this Agreement.

“**Encumbrance**” means any claim, charge, easement, encumbrance, encroachment, security interest, mortgage, lien, pledge or restriction, whether imposed by agreement, understanding, Law, equity or otherwise.

“**Environmental Claims**” has the meaning given that term by **Section 6.17**.

“**Environmental Laws**” has the meaning given that term by **Section 6.17**.

“**Environmental Reports**” has the meaning given that term by **Section 6.17**.

“**Excluded Assets**” has the meaning given that term by **Section 2.2**.

“**Excluded Contracts**” means any commitment, contract, lease or agreement (x) related to the Excluded Assets or Excluded Liabilities, including Retained Facilities and Operations and Employee Benefit Plans, or (y) set forth on **Schedule 1.1** hereto, in each case irrespective of whether such commitment, contract, lease or agreement is listed in Seller’s Disclosure Schedule. To the extent that any commitment, contract, lease or agreement relates both to Purchased Assets and Excluded Assets or Excluded Liabilities, the parties will use their commercially reasonable efforts to equitably allocate the rights and obligations under such commitments, contracts, leases or agreements between themselves, both before and after the Closing. Notwithstanding the foregoing, Buyer shall have no obligations or liabilities for the matters described in **Section 2.4**, including those in **Section 2.4(l)**.

“**Excluded Liabilities**” has the meaning given that term by **Section 2.4**.

“**Excluded Physician Receivables**” means any accounts and notes receivable from physicians and other sources of referrals (or Persons owned or controlled, in whole or in part, by physicians or potential sources of referrals, including those in a position to influence referrals) to Seller or any System Entity that are more than 30 days past due as of the Closing

Date (including any accounts and notes receivables that have been written off), unless Buyer has provided written notice to Seller on or prior to the Closing Date that such accounts or notes are not to be treated as Excluded Physician Receivables; provided that any receivables from Kaiser Health Plan of Kansas City are not Excluded Physician Receivables.

"Facility" has the meaning set forth in the Recitals hereto.

"Final Purchase Price Adjustment" has the meaning given that term by Section 2.6.

"Financial Statements" has the meaning given that term by Section 6.5.

"FSA" has the meaning given that term by Section 11.3.

"FTC" means the Federal Trade Commission.

"Fund" has the meaning given that term by the Employee Benefit Plans Supplement attached hereto.

"GAAP" shall mean United States generally accepted accounting principles and practices as in effect from time to time and applied consistently by Seller throughout the periods involved.

"Governmental Entity" means any government or any agency, bureau, board, directorate, commission, court, department, official (including the attorney general of any State), political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

"Government Patient Receivables" means all accounts receivable, whether recorded or unrecorded, billed or unbilled, known or unknown, or written off, arising from the rendering of services and provision of medicine, drugs and supplies to patients at the Facilities through the Closing and relating to Medicare, Medicaid and other governmental third party payors.

"Government Programs" has the meaning given that term by Section 6.7.

"GUST" has the meaning given that term by the Employee Benefit Plans Supplement attached hereto.

"Hazardous Substances" has the meaning given that term by Section 6.17.

"HIPAA" has the meaning given that term by Section 6.18.

"HMTVG" means Health Midwest Ventures Group, Inc.

"Home Health and Mental Health Services Operations" means the business conducted by the following System Entities: Research Mental Health Services; Kansas City

Hospice; VNA Corporation d/b/a Visiting Nurse Services of Health Midwest; VNA Plus, Inc.; and Community Options, Inc.

"Hospitals" means Research Medical Center, Baptist Lutheran Medical Center, Independence Regional Health Center, Medical Center of Independence, Menorah Medical Center, Overland Park Regional Medical Center, Lee's Summit Hospital, Research Belton Hospital, Lafayette Regional Health Center, Allen County Hospital, and Research Psychiatric Center; but only to the extent (a) such Hospitals are transferred to Buyer at the Closing and (b) with respect to any such Hospital in which substantially all of its assets are leased from a third party, the applicable underlying lease remains in effect.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the related regulations and published interpretations.

"Income Statement" has the meaning given that term by Section 6.5.

"Income Tax Benefit" has the meaning given that term by Section 12.5(d)(ii).

"Indemnified Party" has the meaning given that term by Section 13.4.

"Indemnifying Party" has the meaning given that term by Section 13.4.

"Individual Matter" has the meaning given that term by Section 13.3.

"Initial Purchase Price Adjustment" has the meaning given that term by Section 2.6.

"Insider" has the meaning given that term by Section 7.10.

"Intellectual Property" means all names, patents, copyrights, trade names, trademarks and service marks (or variations thereof) associated with any Facility, Seller and/or System Entities and any applications therefor, mask works, net lists, schematics, technology, know-how, trade secrets, ideas, algorithms, processes, computer software programs and applications (in both source code and object code form), and tangible or intangible proprietary information or material, including the names "Health Midwest", "HM" and any variation thereof or any trademark or service mark utilizing "Health Midwest" or "HM" therein.

"Interim Balance Sheet" has the meaning given that term by Section 2.7.

"JAMS" has the meaning given that term by Section 14.2.

"Joint Venture Entity" means the joint venture entities identified as such on Schedule One, whether they take the form of a partnership, limited liability company, corporation or other form of organization.

"Justice Department" means the United States Department of Justice.

"Knowledge" Whenever any statement herein or in any schedule, exhibit, certificate or other documents delivered to any party pursuant to this Agreement is made "to [its] knowledge" or words of similar intent or effect of any party or its representative, such statement is limited to the facts or absence of facts actually known to the party making such statement, which, with respect to Seller, Buyer and Guarantor, means the facts or absence of facts actually known by the chief executive officer, chief financial officer or general counsel of such Person and, in addition, with respect to Seller, the officer in charge of each of the four (4) Regions of Seller and the chief executive officer of each Hospital, HMVG, Health Midwest Comprehensive Care, Inc., Health Midwest Medical Group, Inc. and Health Midwest Office Facilities Corporation. No constructive or imputed knowledge shall be attributed to any Person. The Regions of Seller are the Central Region, the Eastern Region, the Johnson County Region, and Health Midwest Development Group.

"Law" means any constitutional provision, statute, ordinance or other law, rule, regulation or interpretation or any order of any Governmental Entity.

"Lease Agreement (Hospitals)" means the Medical Facilities Lease Agreement, dated December 31, 1998, originally by and among the parties shown on **Schedule Three** and relating to the properties described in the Agreement to Lease (Hospitals). The Triad Entities shown on **Schedule Three** subsequently received assignment of the rights and responsibilities of the applicable landlords under the Lease Agreement (Hospitals).

"Lease Agreement (Surgicenters)" means the Surgicenter Facilities Lease Agreement, dated December 31, 1998, originally by and between the parties identified on **Schedule Three** and relating to the properties described in the Agreement to Lease (Surgicenters). The Triad Entities shown on **Schedule Three** subsequently received assignment of the rights and responsibilities of the applicable landlord under the Lease Agreement (Surgicenters).

"Leased Triad Assets" means the Leased Triad Hospitals and the Leased Triad Surgicenters.

"Leased Triad Hospitals" means the assets and facilities described in the Lease Agreement (Hospitals).

"Leased Triad Surgicenters" means the assets and facilities described in the Lease Agreement (Surgicenters).

"Letter of Credit Agreement" means the Letter of Credit Agreement, dated December 31, 1998, originally by and between the parties shown on **Schedule Three** and relating to the Leased Triad Assets. The Triad Entities shown on **Schedule Three** subsequently received assignment of the rights and responsibilities of the applicable parties other than System Entities under the Letter of Credit Agreement.

"LSII" means Lee's Summit Medical Imaging, Inc.

"Material Adverse Effect" means (a) with respect to Seller, any change, circumstance or effect having a material adverse effect on the business, results of operations or

financial condition of the Purchased Assets and Assumed Liabilities, taken as a whole, other than any change, circumstance or effect relating to the industries or markets in which the Facilities operate, or (b) with respect to Buyer and Guarantor, any change, circumstance or effect having a material adverse effect on the financial condition of the Buyer and Guarantor which will prevent Buyer from consummating the transactions hereunder and/or Guarantor from satisfying its obligations under Section 14.18.

"Material Contracts" means all Assumed Contracts that are not De Minimis Contracts.

"Material Facilities and Operations" means all Facilities and operations that are not Ancillary Facilities and Operations (including leased or managed rural hospitals).

"MCII" means Medical Center Imaging, Inc.

"Medicaid" has the meaning given that term by Section 6.7.

"Medicare" has the meaning given that term by Section 6.7.

"Net Working Capital" means, as of any date of determination, an amount equal to (a) the sum of the amounts reflected in the entries on the applicable consolidated balance sheet of Seller entitled (i) "Accounts receivable (net)"; (ii) "Other Accounts Receivable" (including Agency Receivables); (iii) "Inventory" and (iv) "Prepaid Expenses and other assets" (other than those prepaid expenses that are not transferable to and usable by Buyer); minus (b) the sum of the amounts reflected in the entries on the applicable balance sheet of Seller entitled (v) "Accounts payable"; (vi) "Due to Third Party Payors" (including payables with respect to cost reports); and (vii) "Accrued and other Liabilities" (including accrued Vacation Leave). In the event that liabilities associated with any Specified Cost Report Matter are required to be accrued as of the Closing Date in accordance with GAAP, then the liabilities with respect to such Specified Cost Report Matter will be taken into account in the determination of the Net Working Capital. No Excluded Assets or Excluded Liabilities will be included in "Net Working Capital."

"Non-Transferred Asset Value" means the following (which in no event shall be less than zero with respect to any Facility or operation):

(w) with respect to any Type A Retained Facilities and Operations (including Joint Venture Entities) (a) the product of (i) 0.50 multiplied by (ii) Proportional Annualized Net Revenues of the particular Type A Retained Facility and Operations, less (b) the option price, if any, paid or payable to Buyer by third parties having purchase rights with respect to such facilities or operations which arise upon consummation of the Closing;

(x) with respect to any Type B Retained Facilities and Operations (including Joint Venture Entities) (a) the product of (i) 2.5 multiplied by (ii) Proportional Annualized Net Revenues of the particular Type B Retained Facility and Operations less (b) the option price, if any, paid or payable to Buyer by third parties having purchase rights with respect to such facilities or operations which arise upon consummation of the Closing;

(y) with respect to assets that are not operating assets (such as medical office buildings, unimproved Real Property or Real Property held for sale or development), the appraised value of such assets under a mutually acceptable process; and

(z) with respect to Hospitals listed on **Schedule 9.8** and The Cancer Institute, L.L.C., the product of (i) 1.2 multiplied by (ii) Proportional Annualized Net Revenues of the particular Hospital or The Cancer Institute, L.L.C.

"Non-Transferred Asset Value" for Ancillary Facilities and Operations will be deemed to be zero.

"Noncompete Agreement" means the Noncompete Agreement, dated December 31, 1998, originally by and between HCA Health Care Corporation ("HCA") and Seller and relating to the Leased Triad Assets. It was intended that Triad subsequently assume HCA's obligations under the Noncompete Agreement. To Seller's knowledge, this substitution did not occur.

"Off-Site Facilities" has the meaning given that term by **Section 6.17**.

"OIG" has the meaning given that term by **Section 6.7**.

"Park Lane Assets" has the meaning given that term by **Section 2.2(xvi)**.

"Party Losses" has the meaning given that term by **Section 13.3**.

"Payable Tax Items" has the meaning given that term by **Section 6.16**.

"Permit" means any license, permit or certificate of need required to be issued by any Governmental Entity.

"Permitted Capital Expenditures" means capital expenditures with respect to the Purchased Assets that are either (x) described in **Section 2.6** of Seller's Disclosure Schedule (and no other Section of Seller's Disclosure Schedule) or (y) are less than \$100,000 individually and \$1,000,000 in the aggregate.

"Permitted Encumbrance" means any (i) lien which secures payment or performance of any Assumed Liabilities, (ii) lien which encumbers the fee interest in Real Property leased to Seller, (iii) lien for taxes not yet due and payable, (iv) lease obligations assumed in writing by Buyer, and (v) easements, restrictions and other Encumbrances of record that, individually or in the aggregate, do not interfere with or would not reasonably be expected to interfere with the marketability of the Real Property or the operations of the Purchased Assets in a manner consistent with the current use by Seller or the System Entities; provided that, notwithstanding anything to the contrary set forth in Seller's Disclosure Schedule, neither judgment liens nor liens securing indebtedness for borrowed money of Seller or the System Entities shall be Permitted Encumbrances; and provided further that, notwithstanding anything to the contrary set forth in Seller's Disclosure Schedule, any encroachment (disclosed by the surveys delivered under **Section 9.6** hereof) relative to easements and other restrictions of record in Seller's Disclosure Schedule shall only be considered a Permitted Encumbrance if such

encroachment does not interfere with or would not reasonably be expected to interfere with the marketability of the Real Property or the operations of the Purchased Assets in a manner consistent with the current use by Seller or the System Entities.

"Person" means an association, a corporation, an individual, a partnership, a limited liability company, a trust or any other entity or organization, including a Governmental Entity.

"PHO Receivables" means any obligation or liability owed or owing to Health Midwest Comprehensive Care, Inc. by any employee benefit plan of Seller or its Affiliates as of the Closing Date.

"PIP" has the meaning given that term by Section 11.1.

"PPS" has the meaning given that term by Section 11.1.

"PPS Transition Payment" has the meaning given that term by Section 11.1.

"Pre-Closing Period" has the meaning given that term by Section 12.5(c)(i).

"PreClosing Cost Reports" has the meaning given that term by Section 11.2.

"Proceeding" has the meaning given that term by Section 12.5(f).

"Proportional Annualized Net Revenues" means the product of (A) the percentage of Seller's ownership interest (direct or indirect) in the relevant entity as of September 30, 2002 (including Joint Venture Entities) multiplied by (B) the annualizing factor of 1.33, and multiplied by (C) the net revenues of the relevant entity for the 9 months ended September 30, 2002 (and with respect to any entity that commenced operations between January 1, 2002 and September 30, 2002, revenues of the consolidated operations for the period during 2002 prior to commencement, which shall be multiplied by the applicable annualizing factor (in lieu of the annualizing factor contemplated by (B) above).

"Purchase Price" has the meaning given that term by Section 2.5.

"Purchased Assets" has the meaning given that term by Section 2.1.

"Put and Call Agreement" means the Put and Call Agreement and Right of First Refusal Agreement, dated December 31, 1998, originally by and between the parties shown on Schedule Three and relating to the Leased Triad Assets. The Triad Entities shown on Schedule Three subsequently received assignment of the rights and responsibilities of the applicable parties other than System Entities under the Put and Call Agreement.

"Real Property" has the meaning given that term by Section 2.1.

"Redevelopment Agreement and Plan" means that certain Agreement Between the Tax Increment Financing Commission of Kansas City, Missouri and the Health Midwest

Partners for Change, Inc. for the Implementation of the Southtown Corridor/31st Street and Baltimore Tax Increment Financing Plan.

"Retained Facilities and Operations" means all Core Facilities and Operations, Material Facilities and Operations and Ancillary Facilities and Operations that are not transferred to Buyer pursuant to this Agreement.

"Retained Plans" has the meaning given that term by the Employee Benefit Plans Supplement attached hereto.

"Retirement Reserve Plan" has the meaning given that term by the Employee Benefit Plans Supplement attached hereto.

"Returns" has the meaning given that term by Section 6.16.

"Second Closing Date" has the meaning given that term by Section 9.8.

"Second Request" means a "Request for Additional Information and Documentary Materials" as contemplated by the HSR Act.

"Securities Act" means the Securities Act of 1933, as amended.

"Seller Guaranty" means the Guaranty Agreement, dated December 31, 1998, originally signed by Seller in favor of HCA Inc. and certain of its subsidiaries and relating to the Leased Triad Assets. The Triad Entities shown on **Schedule Three** subsequently received assignment of the rights and responsibilities of HCA and its subsidiaries under the Seller Guaranty.

"Seller Indemnified Parties" has the meaning given that term by Section 13.2.

"Seller's Disclosure Schedule" has the meaning given that term by Section 6.

"Sick Leave" has the meaning given that term by Section 11.3(a).

"Specified Cost Report Matters" means the cost report matters identified as such on **Schedule 1.1**.

"Specified Matters" means (i) any matters or concerns now known or discovered prior to the Closing relating to Seller, the System Entities, the Purchased Assets and/or the Assumed Liabilities that Buyer may identify from time to time to Seller in writing prior to the Closing that Buyer believes, in its sole and absolute discretion, require disclosure to any applicable Governmental Entity, and (ii) any matters or concerns raised by any Governmental Entity in connection with, related to or as a result of any Governmental Entity investigating any matters or concerns covered by clause (i) above.

"Straddle Patients" has the meaning given that term by Section 11.1.

"Straddle Period" has the meaning given that term by Section 12.5(c)(ii).

"Subsequent Closing Date(s)" has the meaning given that term by Section 9.8.

"Survival Period" has the meaning given that term by Section 13.5.

"Target Corporations" has the meaning given that term by Section 12.5(a).

"Tax Statement" has the meaning given that term by Section 12.5(c)(ii).

"Transition Patients" has the meaning given that term by Section 11.1.

"Transition Services" has the meaning given that term by Section 11.1.

"Triad" means Triad Hospitals, Inc., a Delaware corporation.

"Triad Agreements" means, collectively, the Agreement to Lease (Hospitals), Lease Agreement (Hospitals), Agreement to Lease (Surgicenters), Lease Agreement (Surgicenters), Put and Call Agreement, Letter of Credit Agreement, Noncompete Agreement, Triad Guaranty and Seller Guaranty.

"Triad Entities" means those Affiliates of Triad shown on Schedule Three.

"Triad Guaranty" means the Guaranty Agreement, dated December 31, 1998, originally signed by HCA in favor of the System Entities shown on Schedule Three and relating to the Leased Triad Assets. Triad subsequently assumed HCA's obligations under the Triad Guaranty.

"Trinity Lutheran Assets" has the meaning given that term by Section 2.2(xv).

"Type A Retained Facilities and Operations" means all Core Facilities and Operations, Material Facilities and Operations and Ancillary Facilities and Operations (other than Hospitals listed on Schedule 9.8, The Cancer Institute, L.L.C. and such entities that are licensed as ambulatory surgery centers) that are (i) not transferred to Buyer pursuant to this Agreement or (ii) are subject to purchase options in favor of third parties which arise upon consummation of the Closing or in connection with the transactions contemplated hereby and which are exercised by such third parties within one year of the Closing. For purposes hereof, any interest in a Joint Venture Entity not transferred with an economic, voting and capital interest identical to that held by Seller or the System Entities shall be deemed to be only transferred in part, and equitable adjustment will be made to the Non-Transferred Asset Value with respect to any such asset to reflect the fact that such interest was transferred only in part.

"Type B Retained Facilities and Operations" means all Core Facilities and Operations, Material Facilities and Operations and Ancillary Facilities and Operations that are licensed as ambulatory surgery centers and that are (i) not transferred to Buyer pursuant to this Agreement or (ii) are subject to purchase options in favor of third parties which arise upon consummation of the Closing or in connection with the transactions contemplated hereby and which are exercised by such third parties within one year of the Closing. For purposes hereof, any interest in a Joint Venture Entity not transferred with an economic, voting and capital interest identical to that held by Seller or the System Entities shall be deemed to be only

transferred in part, and equitable adjustment will be made to the Non-Transferred Asset Value with respect to any such asset to reflect the fact that such interest was transferred only in part..

“Vacation Leave” has the meaning given that term by Section 11.3(a).

“Wetzel Clinic Severance/Retirement Benefit Account Obligations” means all obligations and liabilities associated with physicians or administrators at the Wetzel Clinic relating to the severance/retirement benefit account and/or related trust to be established for such physicians or administrators pursuant to their written employment agreements.

Capitalized terms which are not assigned a definition in this Section 1.1 shall have the meaning assigned to them by such other Section of or Schedule to this Agreement where a definition or meaning is assigned to them.

1.2 Interpretation. In this Agreement, unless the context otherwise requires:

(a) references to this Agreement are references to this Agreement and to the Schedules (as hereinafter defined);

(b) references to Articles or Sections are references to articles or sections of this Agreement;

(c) references to any party to this Agreement shall include references to its respective successors and permitted assigns;

(d) references to a judgment shall include references to any order, writ, injunction, decree, determination or award of any court or tribunal;

(e) the terms “hereof,” “herein,” “hereby,” and derivative or similar words will refer to this entire Agreement;

(f) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced by the parties from time to time;

(g) references to any Law are references to that Law as of the Closing Date, unless clearly indicated otherwise, and shall also refer to all rules and regulations promulgated thereunder, unless the context requires otherwise;

(h) the word “including” means including without limitation regardless of whether the words “without limitation” are included;

(i) references to time are references to Central Standard or Daylight time (as in effect in Kansas City, Missouri on the applicable day) unless otherwise specified herein;

(j) “ordinary course of business” means ordinary course of business consistent with past practice and with a long-term view toward the viability of the Purchased Assets; and